

REMARKS/ARGUMENTS

The Applicant acknowledges, with thanks, the office action dated September 30, 2008. This amendment is responsive to the September 30, 2008 Office Action. Applicant notes with appreciation that the examiner considered claims 33 and 35 directed to allowable subject matter but were objected to for depending upon rejected base claims.

By this amendment claims 10 and 34 have been amended to include elements of dependent claims that the examiner indicated would be allowable over the cited prior art. Claim 11 was amended to correct an informal defect necessitated by an amendment to claim 10, the modulating means should now read modem. Claim 1 has also been amended. Claims 33 and 35 have been canceled without prejudice or disclaimer. Reconsideration of this application as amended is requested.

Prior Art Matters

Claims 1-7 were rejected to under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Publication No. 2004/0164619 to Parker et al. (*hereinafter*, "Parker") and U.S. Patent Publication No 2003/0068033 to Kiko, in view of U.S. Patent No. 6,449,348 to Lamb et al. (*hereinafter*, "Lamb"). Claims 10-12, 14-15, 17-22 were rejected to under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Publication No. 2004/0164619 to Parker and U.S. Patent No. 6,404,861 to Cohen et al. (*hereinafter*, "Cohen") in view of U.S. Patent Publication No 2003/0068033 to Kiko. Claim 34 was rejected to under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,449,348 to Lamb in view of U.S. Patent No. 6,404,861 to Cohen. Withdrawal of these rejections is requested for reasons that will now be set forth.

Claim 10 has been amended to include all of the elements of claim 35, the Examiner indicated claim 35 was in condition for allowance but was objected to for depending from a rejected base claim; therefore, claim 10 should be in condition for allowance as it now contains all of the elements of claim 35 in including the base claim and all intervening claims. Accordingly, claim 35 has been canceled without prejudice or disclaimer. Claims 11-12, 14-16 and 17-22 directly depend from claim 10 and thus contain each and every element of claim 10, and therefore should be in condition for allowance for the same reasons as claim 10.

Claim 34 has been amended to include all of the elements of claim 33. The examiner indicated claim 33 was allowable but was objected to for depending upon a rejected base claim. Therefore, by amending claim 34 to include all of the elements of claim 33, including the base claim and all intervening claims, claim 34 should now be in condition for allowance. Claim 33 has been canceled without prejudice or disclaimer.

Independent claim 1 has been amended to include the elements of sending a discovery signal to the network device on the second medium, receiving a discovery response signal that is responsive to the discovery signal, and providing power to the network device after receiving the discovery response signal which the examiner indicated the prior art failed to teach or render obvious (*see* ¶ 9 of Office Action dated 09/30/2008). This amendment to claim should now put claim 1 in condition for allowance. Claims 2-5 and 6-7 directly depend from claim 1 and thus contain each and every element of claim 1, and therefore should be in condition for allowance for the same reasons as claim 1.

Conclusion

Withdrawal of the rejections to this application is requested for the reasons set forth herein and a Notice of Allowance is earnestly solicited. If there are any fees necessitated by the foregoing communication, the Commissioner is hereby authorized to charge such fees to our Deposit Account No. 50-0902, referencing our Docket No. 72255/33235.

Respectfully submitted,

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